

§ 13.4

(3) Representation by Civilian Defense Counsel will not relieve Detailed Defense Counsel of the duties specified in 32 CFR 9.4(c)(2).

(4) Neither qualification of a Civilian Defense Counsel for membership in the pool of available Civilian Defense Counsel nor the entry of appearance in a specific case guarantees that counsel's presence at closed military commission proceedings or access to information protected under 32 CFR 9.6(d)(5).

(5) The Chief Defense Counsel shall monitor the conduct of all qualified Civilian Defense Counsel for compliance with all rules, regulations, and instructions governing military commissions. The Chief Defense Counsel will report all instances of noncompliance with the rules, regulations, and instructions governing military commissions to the Appointing Authority and to the General Counsel of the Department of Defense with a recommendation as to any appropriate action consistent with 32 CFR part 9 and this part.

§ 13.4 Duties and responsibilities of the defense.

(a) *Regular duties.* The Defense shall perform all duties specified or implied in 32 CFR part 9 as responsibilities of the Defense.

(b) *Special duties.* The Office of the Chief Defense Counsel shall perform such other functions, consistent with 32 CFR part 9, and Military Order of November 13, 2001, "Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism," and the mission of the Office of the Chief Defense Counsel, as may be directed by the Appointing Authority or the General Counsel of the Department of Defense.

§ 13.5 Policies.

(a) *Prohibition on certain agreements.* No Defense Counsel may enter into agreements with any detainee other than his client, or such detainee's Defense Counsel, that might cause him or the client he represents to incur an obligation of confidentiality with such other detainee or Defense Counsel or to effect some other impediment to representation.

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(b) *Prohibition on certain disclosures.* All Defense Counsel must strictly comply with 32 CFR 9.6(d)(5) and 9.9 to ensure they do not improperly disclose classified information, national security information, or state secrets to an Accused or potential Accused or to any other person not specifically authorized to receive such information.

(c) *Statements to the media.* Consistent with DoD Directive 5122.5¹, the Assistant Secretary of Defense for Public Affairs shall serve as the sole release authority for DoD information and audiovisual materials regarding military commissions. Personnel assigned to the Office of the Chief Defense Counsel, as well as all members of the Civilian Defense Counsel pool and associated personnel may communicate with news media representatives regarding cases and other matters related to military commissions only when approved by the Appointing Authority or the General Counsel of the Department of Defense.

PART 14—QUALIFICATION OF CIVILIAN DEFENSE COUNSEL

Sec.

14.1 Purpose.

14.2 Authority.

14.3 Policies and procedures.

APPENDIX A TO PART 14—UNITED STATES OF AMERICA AUTHORIZATION FOR RELEASE OF INFORMATION

APPENDIX B TO PART 14—AFFIDAVIT AND AGREEMENT BY CIVILIAN DEFENSE COUNSEL

AUTHORITY: 10 U.S.C. 113(d) and 140(b).

SOURCE: 68 FR 39392, July 1, 2003, unless otherwise noted.

§ 14.1 Purpose.

This part establishes policies and procedures for the creation and management of the pool of qualified Civilian Defense Counsel authorized in 32 CFR 9.4 (c)(3)(ii) in accordance with Military Order of November 13, 2001, "Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism," (3 CFR 2001 Comp., 918, 66 FR 57833).

¹Available at <http://www.dtic.mil/whs/directives>.